

Title	Juvenile Restraining Orders (amend Cal. Rules of Court, rule 1429.5; revise forms JV-245, JV-250, JV-251/FL-306, JV-252/FL-895)
Summary	The proposed changes to rule 1429.5 and to four forms related to juvenile restraining orders bring the rules and forms into compliance with a new California statute (Assem. Bill 1129), clarify procedures, and bring into the juvenile law process certain family law procedures regarding firearm relinquishment and reissuance of temporary restraining orders.
Source	Family and Juvenile Law Advisory Committee
Staff	Mara Bernstein, Juvenile Projects Attorney, 415-865-7728, mara.bernstein@jud.ca.gov
Discussion	<p>The passage of Assembly bill 1129 in the 2001 legislative session changed Welfare and Institutions Code section 213.5, which governs restraining orders granted by dependency or delinquency courts, in several ways. The key changes were: (1) allowing juvenile courts to issue restraining orders enjoining “any person” from various activities, instead of limiting the possible enjoined persons to “parent, guardian, or current or former member of the child’s household”; (2) allowing juvenile courts to issue restraining orders protecting the parents, legal guardians, or current caretakers of a dependent child or another child in the household instead of just protecting the dependent children; (3) requiring a criminal records search to be conducted, and requiring the court to consider the results of that search, prior to issuing an order (except as provided in Sen. Bill 66); and (4) requiring the clerk of the court to notify law enforcement if it is determined that the subject of the search is on parole or probation, or is named in an outstanding warrant.</p> <p>The amended rule incorporates these statutory changes. It also clarifies some procedures discussed in the statute and describes a procedure and a form for reissuing a temporary restraining order. It includes the criminal records search requirement in Assem. Bill 1129 as well as the exception in Sen. Bill 66, under which only courts identified by the Judicial Council as “having resources available for these purposes” are required to implement the search provisions. (Stats. 2001, ch. 572, § 7). The amended rule includes a new section prohibiting courts other than criminal courts from issuing orders contrary to any orders in the juvenile restraining order.</p> <p>The amendments to the forms conform the application and order forms (JV-245 and JV-250) to the new requirements and make other needed</p>

changes. Two family law forms (FL-306 and FL-895) are double-numbered with juvenile form numbers, for ease of use in juvenile proceedings.

The proposed amended rule and revised forms are attached, at pages 3–13. Also attached are the January 1, 2002 version of Welfare and Institutions Code section 213.5, and a copy of Senate Bill 66

Attachment

1 **Rule 1429.5. Restraining orders**

2
3 (a) ***

4
5 (b) **[Application (§§ 213.5, 304)]** Application for restraining orders may
6 be made orally at any scheduled hearing regarding the child who is the
7 subject of a petition under section 300, 601, or 602, or may be made by
8 written application, or may be made on the court's own motion. Written
9 application ~~shall~~ must be submitted on:

10
11 (1)-(2) ***

12
13 (c) **[Protected children (§ 213.5(a) and (b))]** Restraining orders may be
14 issued to protect any of the following children:

15
16 (1) A child who is the subject of the dependency petition or who is
17 declared a dependent;

18
19 (2) Another child in the household of the child named in (1); and

20
21 (3) A child who is the subject of a delinquency petition or who is
22 declared a delinquent.

23
24 (d) **[Other protected persons (§ 213.5(a))]** If the court grants ex parte
25 orders or orders after hearing that protect any child listed in (c)(1) or
26 (2), then the court may issue orders protecting any parent, legal
27 guardian, or current caregiver of the child listed in (c)(1), regardless of
28 whether that child resides with that parent, legal guardian, or current
29 caregiver.

30
31 (e) **[Available orders and restrained persons (§ 213.5(a) and (b))]** The
32 court may issue, either ex parte or after notice and hearing, restraining
33 orders that:

34
35 (1) Enjoin any person from molesting, attacking, striking, sexually
36 assaulting, stalking, or battering any of the persons named in (c) or
37 (d);

38
39 (2) Exclude any person from the dwelling of the person who has care,
40 custody, and control of the child named in (c)(1) or (c)(3). This
41 order may be issued for the time and on the conditions that the
42 court determines, regardless of which party holds legal or equitable

1 title or is the lessee of the residence or dwelling, upon a showing
2 that:

3
4 (A) The party who will stay in the dwelling has a right under
5 color of law to possession of the premises,

6
7 (B) The party to be excluded has assaulted or threatens to assault
8 the other party or any other person under the care, custody,
9 and control of the other party, or any minor child of the
10 parties or of the other party, and

11
12 (C) Physical or emotional harm would otherwise result to the
13 other party, to any person under the care, custody and control
14 of the other party, or to any minor child of the parties or of
15 the other party;

16
17 (3) Enjoin any person from behavior, including contacting,
18 threatening, or disturbing the peace of the persons named in (c) or
19 (d), as necessary to effectuate orders under (1) or (2); and
20

21 (4) Enjoin any delinquent child or any child for whom a section 601 or
22 602 petition has been filed from contacting, threatening, stalking,
23 or disturbing the peace of any person whom the court finds to be at
24 risk from the conduct of the child or with whom association would
25 be detrimental to the child.

26
27 **(e)(f) [Ex parte applications—procedure (§ 213.5(a)–(c))]** The written
28 application may be submitted ex parte and the court may grant the
29 petition and issue a temporary order, ~~or set the matter for hearing.~~ The
30 matter may be heard simultaneously with any scheduled hearing
31 regarding the child who is the subject of the section 300, 601, or 602
32 petition. Notice of the ex parte proceeding is required as set forth under
33 rule 379.
34

35 (1) In determining whether or not to issue the temporary restraining
36 order ex parte, the court ~~shall~~ must consider all documents
37 submitted with the application and may review the contents of the
38 juvenile court file regarding the child.
39

40 ~~(2) At a hearing, proof may be by the application and any attachments,~~
41 ~~additional declarations or documentary evidence, the contents of~~
42 ~~the juvenile court file, testimony, or any combination.~~
43

1 (3)(2) The temporary restraining order ~~shall~~ must be prepared on
2 Judicial Council form *Restraining Order—Juvenile* (JV-250) and
3 must state on its face the date of expiration of the order.
4

5 **(g) [Order to show cause and reissuance (§ 213.5(c))]** When a temporary
6 restraining order is granted without notice, the matter must be made
7 returnable on an order to show cause why the order should not be
8 granted, no later than 15 days, or, on a showing of good cause, 20 days
9 from the date the temporary restraining order is granted.
10

11 (1) On the motion of the person seeking the restraining order or its
12 own motion, the court may shorten the time for service on the
13 person to be restrained of the order to show cause.
14

15 (2) When a temporary restraining order is granted without notice and
16 service on the restrained person has not been accomplished, or
17 when the hearing must be continued for some other reason, the
18 court may reissue the temporary restraining order pursuant to the
19 procedures in section 527 of the Code of Civil Procedure. Judicial
20 Council form *Application and Order for Reissuance of Order to*
21 *Show Cause* (JV-251/FL-306) must be used for this purpose.
22

23 **(d)(h) [Hearing on application for restraining order (§ 213.5(d))]** ~~The~~
24 ~~hearing on the application for a restraining order for up to one year~~
25 ~~during the dependency or wardship of the child or for up to three years~~
26 ~~on the termination of dependency or wardship shall be conducted as~~
27 ~~described in subdivision (e).~~ The court may issue, upon notice and
28 hearing, any of the orders in (e). The restraining order must remain in
29 effect for a period of time determined by the court, but in any case not
30 more than three years.
31

32 (1) The matter may be heard simultaneously with any scheduled
33 hearing regarding the child who is the subject of the section 300,
34 601, or 602 petition.
35

36 (2) Proof may be by one or more of the following: the application and
37 any attachments, additional declarations or documentary evidence,
38 the contents of the juvenile court file, or testimony.
39

40 (3) The order after hearing ~~shall~~ must be prepared on Judicial Council
41 form *Restraining Order—Juvenile* (JV-250) and must state on its
42 face the date of expiration of the order.
43

1 **(i) [Criminal records search (§ 213.5(k) and Stats. 2001, ch. 572, § 7)]**
2

3 (1) Except as provided in (3), before any hearing on the issuance of a
4 restraining order the court must ensure that a criminal records
5 search is or has been conducted as described in section 6306(a) of
6 the Family Code. Prior to deciding whether to issue a restraining
7 order, the court must consider the information obtained from the
8 search.
9

10 (2) If the results of the search indicate that an outstanding warrant
11 exists against the subject of the search, or that the subject of the
12 search is currently on parole or probation, the court must proceed
13 under section 213.5(k)(3) of the Welfare and Institutions code.
14

15 (3) The requirements of (1) and (2) must be implemented in those
16 courts identified by the Judicial Council as having resources
17 currently available for these purposes. All other courts must
18 implement the requirements to the extent that funds are
19 appropriated for this purpose in the annual Budget Act.
20

21 **(j) [Termination or extension of restraining order (§ 213.5(d))]**
22

23 (1) The restraining order may be terminated by the court before the
24 expiration date listed on its face.
25

26 (2) The restraining order may be extended beyond the expiration date
27 listed on its face by mutual consent of all parties to the order, or by
28 further order of the court on motion of any party to the order.
29

30 **(k) [Violation (§ 213.5(h))]** Any willful and knowing violation of any
31 order, temporary order, or order after hearing granted pursuant to
32 section 213.5 is a misdemeanor, punishable under section 273.65 of the
33 Penal Code.
34

35 **(l) [Restraining orders issued by other courts (§ 304)]** If a restraining
36 order has been issued by the juvenile court pursuant to section 213.5, no
37 court other than a criminal court may issue any order contrary to the
38 juvenile court's restraining order.

If filed, clerk will stamp below

★ 1 Name of person who asked for the order:

◆ 2 Your name:

Your address, or if confidential, address where mail can be sent to you (*Skip this if you have a lawyer*):

City: _____ State: _____ Zip: _____

Your phone # (optional): (____) _____

Your lawyer's name (*if you have one*), address, telephone and State Bar #: _____

(Court name and street address):

Case Number:

3 To the person selling or turning in firearm(s):

After this form is signed, take it the court clerk.
Keep a copy. For help read Form FL-896.

A To: Law Enforcement

Fill out part 4A and 5 of this form. Keep a copy and give the original to the person who turned in the firearm(s).

The firearms listed below were turned in on:

Date: ____/____/____ at: ____ ☐ a.m. ☐ p.m.

To: _____
Print Name & Title of law enforcement agent

Name of law enforcement agency

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.



Signature of law enforcement agent

5 Firearm Make

1. _____
2. _____
3. _____
4. _____

B To: Licensed Gun Dealer

Fill out part 4B and 5 of this form. Keep a copy and give the original to the person who sold the firearm(s) to you.

The firearms listed below were sold on:

Date: ____/____/____ at: ____ ☐ a.m. ☐ p.m.

To: _____
Name of Licensed Gun Dealer

License Number (____) _____
Telephone

Address

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.



Signature of Licensed Gun Dealer

Model

Serial

- | | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

CASE NAME: <div style="text-align: center; font-weight: bold; font-size: 1.2em;">DRAFT-2</div>	CASE NUMBERS: JUVENILE: FAMILY:
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APPLICATION AND DECLARATION FOR RESTRAINING ORDER (Juvenile)
(Attachment to JV-100 or JV-600)

1. The child is
- a. ☐ a dependent of the court under Welfare and Institutions Code section 300; or
 - b. ☐ the subject of a petition that has been filed in this court under Welfare and Institutions Code section 300; or
 - c. ☐ a ward of the court under Welfare and Institutions Code section 601; or
 - d. ☐ a ward of the court under Welfare and Institutions Code section 602; or
 - e. ☐ the subject of a petition that has been filed in this court under Welfare and Institutions Code section 601; or
 - f. ☐ the subject of a petition that has been filed in this court under Welfare and Institutions Code section 602.
2. Petitioner is the
- a. ☐ mother.
 - b. ☐ father.
 - c. ☐ child.
 - d. ☐ guardian.
 - e. ☐ social worker.
 - f. ☐ probation officer.
 - g. ☐ present caretaker of child.
 - h. ☐ court-appointed special advocate.
 - i. ☐ representative of Indian child's tribe.
 - j. ☐ other *(state interest or relationship to child)*:
3. **PERSONS TO BE PROTECTED** *(List names and ages of all persons to be protected; also list relationship to child in item 1):*
- Name: _____ Age: _____ Relationship *(Child, parent, legal guardian, current caretaker)*: _____

4. a. **PERSON TO BE RESTRAINED** *(name)*:

b. DESCRIPTION: Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

5. The person to be restrained has *(check at least one box)*:
- a. ☐ assaulted or attempted to assault one or more of the persons to be protected.
 - b. ☐ caused, threatened, or attempted bodily injury on one or more of the persons to be protected.
 - c. ☐ caused one or more of the persons to be protected to fear physical or emotional harm.
 - d. ☐ sexually assaulted or attempted to sexually assault one or more of the persons to be protected.
 - e. ☐ stalked one or more of the persons to be protected.
 - f. ☐ other *(specify)*:

☐ as described in item 7

☐ as described in attached report by: ☐ police officer ☐ social worker ☐ probation officer

☐ other

6. **REQUESTED ORDERS**

- a. ☐ Restrained person must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy property of, disturb the peace of, keep under surveillance, or block the movements in public places or thoroughfares of:
 - (1) ☐ each person named in item 3.
 - (2) ☐ one or more persons in item 3 *(specify names)*:
- b. ☐ Restrained person must move immediately from *(address)*:

CASE NAME: 	CASE NUMBERS: JUVENILE: FAMILY:
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6. c. ☐ Restrained person must stay away at least (*specify*): _____ yards from the following persons and places (*the addresses of these places are optional and may be kept confidential*):
- (1) ☐ Protected persons named in item 3.
- (2) ☐ Protected person's residence (*address optional*):
- (3) ☐ Protected person's place of work (*address optional*):
- (4) ☐ The child's school or place of child care (*address optional*):
- (d) ☐ Other (*specify*):
(*address optional*):
- d. ☐ Restrained person must sell or give up any firearms that he or she has or controls for a period not to exceed the duration of the restraining order. Describe any use of or threat regarding use of firearms in item 7. Petitioner believes the restrained person has the following firearms (*specify*):
- e. ☐ The child is a ward or the subject of a petition under section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of (*list names*):
- f. ☐ Other orders:

7. **DESCRIPTION OF CONDUCT** (*describe in detail the most recent incidents supporting this application or attach copies of reports of law enforcement officers, social workers, probation officers, or other professional persons*):

8. ☐ **LAW ENFORCEMENT**

The following law enforcement agencies must receive copies of orders.

Law Enforcement Agency

Address

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

	▶	
(TYPE OR PRINT NAME)		(SIGNATURE OF PETITIONER)

1. a. ☐ **Ex parte order**
☐ Person to be restrained received notice.
☐ Person to be restrained did not receive notice.

c. Judicial Officer (*name*):

d. Persons and attorneys present (*names*):

CASE NAME: _____	CASE NUMBERS: JUVENILE: FAMILY:
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5. c. ☐ **must stay away** at least (*specify*): _____ yards from the following persons and places (*the addresses of these places are optional and may be kept confidential*):

- (1) ☐ **Protected persons** named in item 3
- (2) ☐ Protected person's residence (*address optional*):
- (3) ☐ Protected person's place of work (*address optional*):
- (4) ☐ The children's school or place of child care (*address optional*):
- (5) ☐ Other (*specify*):
(*address optional*):

d. ☐ **will have the right to visit the minor children** named in item 3 as follows:

- (1) ☐ none (2) ☐ visitation according to the attached schedule (form JV-205 must be attached if any visitation is ordered)

e. ☐ **will NOT remove the minor children** named in item 3 from

☐ the State of California ☐ other (*specify*):

without order of the court or other condition (*specify*):

6. ☐ The child is a ward or the subject of a petition under section 601 or 602 and must not contact, threaten, stalk, or disturb the peace of (*list names*):

7. The juvenile court ☐ has ☐ has not terminated **jurisdiction** over the minor children named in item 3.

8. ☐ **FIREARM RESTRICTION**

The restrained person is ordered to give up any firearm in or subject to his or her immediate possession or control within

- a. ☐ 24 hours after issuance of this order.
- b. ☐ 48 hours after service of this order.
- c. ☐ other (*specify*):

Any firearms should be surrendered to the control of local law enforcement or to a licensed gun dealer. **The restrained person shall file form JV-252 with the court showing compliance with this order within 72 hours of receiving this order.**

9. **Other orders** (*specify*):

☐ **TO THE PERSON RESTRAINED UNDER A TEMPORARY ORDER**

A court hearing has been set at the time and place indicated below. You may attend this hearing, with or without an attorney, to provide any legal reason that the orders above should not be extended. If you do not appear at this hearing, the court may extend or modify the orders for up to one year without further notice to you. Upon termination of the matter by the juvenile court, the orders may be extended for up to three years.

Date:

Time:

Dept:

Room:

Date:

JUDICIAL OFFICER

CASE NAME: _____	CASE NUMBERS: JUVENILE: FAMILY:
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This order is effective when made. It is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

This order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (1994) (VAWA). This court has jurisdiction of the parties and the subject matter; the restrained person has been afforded notice and timely opportunity to be heard as provided by the laws of this jurisdiction.

Violations: Any person subject to a restraining order is prohibited from owning, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.

Violation of this restraining order may be punished as a contempt of court, a misdemeanor punishable by one year in jail or a \$1,000 fine, or both, or a felony. Taking or concealing a child in violation of this order is subject to state and federal criminal penalties.

CLERK'S CERTIFICATE

[SEAL]

I certify that the foregoing *Restraining Order—Juvenile (CLETS)* is a true and correct copy of the original on file in the court.

Date:

Clerk, by _____, Deputy

- Date:

(SIGNATURE)

ORDER

- Date: _____ time: _____ dept.: _____ rm.: _____
at the street address of the court shown above.

- a. A copy of this order must be attached to documents that must be served on the respondent, as directed in the Order to Show Cause.
- b. All other orders contained in the Order to Show Cause and Temporary Restraining Order remain in full force and effect unless modified by this order. **THE ORDER TO SHOW CAUSE AND THIS ORDER EXPIRE ON THE DATE AND TIME OF THE HEARING SHOWN IN THE BOX ABOVE UNLESS EXTENDED BY THE COURT.**
- c. ☐ Other:

JUDGE OF THE SUPERIOR COURT

Welfare and Institutions Code Section 213.5

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2). A court issuing an ex parte order pursuant to this subdivision may simultaneously issue an ex parte order enjoining any person from contacting, threatening, molesting, attacking, striking, sexually assaulting, stalking, battering, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on

the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic

violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

BILL NUMBER: SB 66 CHAPTERED BILL TEXT

CHAPTER 572

FILED WITH SECRETARY OF STATE OCTOBER 7, 2001

APPROVED BY GOVERNOR OCTOBER 5, 2001

PASSED THE SENATE SEPTEMBER 12, 2001

PASSED THE ASSEMBLY SEPTEMBER 10, 2001

AMENDED IN ASSEMBLY SEPTEMBER 5, 2001

AMENDED IN ASSEMBLY JULY 18, 2001

AMENDED IN ASSEMBLY JUNE 14, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE APRIL 25, 2001

AMENDED IN SENATE MARCH 27, 2001

AMENDED IN SENATE MARCH 12, 2001

INTRODUCED BY Senator Kuehl

(Principal coauthor: Senator Alpert)

(Principal coauthor: Assembly Member Cohn)

(Coauthors: Senators Bowen, Machado, Romero, Scott, and Speier)

(Coauthors: Assembly Members Aroner, Diaz, Jackson, Keeley,

Koretz, Liu, Richman, Strom-Martin, and Zettel)

JANUARY 8, 2001

An act to amend Section 6300 of, and to add Section 6306 to, the Family Code, to add Section 273.75 to the Penal Code, and to amend Section 213.5 of the Welfare and Institutions Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 66, Kuehl. Domestic violence: protective orders: background checks. Existing law, contained in the Domestic Violence Prevention Act, authorizes the court to issue a protective order, as defined, either ex parte or after a hearing, to restrain any person to prevent a recurrence of domestic violence. This bill would require the court, prior to a hearing on the issuance or denial of a protective order to ensure that a search of specified records and data bases is or has been made to determine if the proposed subject of the order has any specified prior criminal convictions or outstanding warrants, is on parole or probation, or is or was the subject of other protective or restraining orders. The bill would further require the court, in determining whether to issue an order, to consider only specified information revealed by the search, and to release this information to the parties or, upon either party's request, to their attorneys. The bill would require the court to advise the parties that they may request the information, and to give the parties a

specified admonition. The bill would require information obtained as a result of the search and relied upon by the court to be maintained in a confidential case file.

The bill would require that this case file be disclosed to the court-appointed mediator assigned to the case and the child custody evaluator, as specified. The bill would require the court to order the clerk to notify appropriate law enforcement agencies of the issuance and contents of the protective order in specified circumstances. The bill would also require the court, if the results of the search indicate that the subject of the order is currently on parole or probation, to order the clerk to notify the appropriate parole or probation officer of the issuance and contents of the protective order. The bill would require officials so notified to take specified actions with respect to the restrained person. Existing law makes it a crime for any person to commit specified acts of violence against his or her spouse, the person with whom he or she is cohabiting, the mother or father of his or her child, or any child.

This bill would require the district attorney or prosecuting city attorney, on any charge involving acts of domestic violence, to perform or cause to be performed a thorough investigation of the defendant's history, including the search of specified data bases, and to present this information for consideration by the court when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, and upon consideration of any plea agreement. Existing law authorizes the issuance of certain restraining orders in proceedings to declare a minor a dependent child of the juvenile court. This bill would impose search requirements in these proceedings analogous to those that would be imposed by the bill pertaining to orders under the Domestic Violence Protection Act. By imposing new duties upon court personnel and prosecuting attorneys, this bill would create a state-mandated local program.

This bill would incorporate additional changes in Section 213.5 of the Welfare and Institutions Code proposed by AB 1129 that would become operative only if AB 1129 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

The bill would require that its provisions be implemented in those courts identified by the Judicial Council as having resources currently available for those purposes. The bill would require that its provisions be implemented in other courts to the extent that funds are appropriated for the purposes of the act in the annual Budget Act. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that courts considering the issuance or denial of a protective order pursuant to Section 6300 of the Family Code or Section 213.5 of the Welfare and Institutions Code obtain available background information concerning the subject of the proposed order. That information should include any relevant criminal history, probation or parole status, outstanding warrants, and the existence of any other protective orders or violations of those orders. This information is to be obtained in order to allow the court to consider the potential risks posed by the subject of the proposed order.

SEC. 2. Section 6300 of the Family Code is amended to read: 6300. An order may be issued under this part, with or without notice, to restrain any person for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit or, if necessary, an affidavit and any additional information provided to the court pursuant to Section 6306, shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse.

SEC. 3. Section 6306 is added to the Family Code, to read: 6306.

(a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has any prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has any misdemeanor conviction involving domestic violence, weapons, or other violence; has any outstanding warrant; is currently on parole or probation; or has any prior restraining order or any violation of a prior restraining order. The search shall be conducted of all records and data bases readily available and reasonably accessible to the court, including, but not limited to, the following:

- (1) The Violent Crime Information Network (VCIN).
- (2) The Supervised Release File.
- (3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.
- (4) The Federal Bureau of Investigation's nationwide data base.
- (5) Locally maintained criminal history records or data bases. However, a record or data base need not be searched if the information available in that record or data base can be obtained as a result of a search conducted in another record or data base.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the issuance of an order pursuant to this part. That information shall be destroyed and shall not become part of the public file in this or any other civil proceeding.

(c) (1) after issuing its ruling, the court shall advise the parties that they may request the information described in subdivision (b) upon which the court relied. The court shall admonish the party seeking the proposed order that it is unlawful, pursuant to Sections 11142 and 13303 of the Penal Code, to willfully release the information, except as authorized by law.

(2) Upon the request of either party to obtain the information described in subdivision (b) upon which the court relied, the court shall release the information to the parties or, upon either party's request, to his or her attorney in that proceeding.

(3) The party seeking the proposed order may release the information to his or her counsel, court personnel, and court-appointed mediators for the purpose of seeking judicial review of the court's order or for purposes of court proceedings under Section 213.5 of the Welfare and Institutions Code.

(d) Any information obtained as a result of the search conducted pursuant to subdivision (a) and relied upon by the court shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. However, the contents of the confidential case file shall be disclosed to the court-appointed mediator assigned to the case or to a child custody evaluator appointed by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code. All court-appointed mediators and child custody evaluators appointed or contracted by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code who may receive information from the search conducted pursuant to subdivision (a) shall be subject to, and shall comply with, the California Law Enforcement Telecommunications System policies, practices, and procedures adopted pursuant to Section 15160 of the Government Code.

(e) If the results of the search conducted pursuant to subdivision (a) indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of any protective order and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(f) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of the issuance and contents of any protective order issued by the court and of any other information obtained through the search that the court determines is appropriate. That officer shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(g) Nothing in this section shall delay the granting of an application for an order that may otherwise be granted without the information resulting from the data base search. If the court finds that a protective order under this part should be granted on the basis of the affidavit presented with the petition, the court shall issue the protective order and shall then ensure that a search is conducted pursuant to subdivision (a) prior to the hearing.

SEC. 4. Section 273.75 is added to the Penal Code, to read: 273.75.

(a) On any charge involving acts of domestic violence as defined in subdivisions (a) and (b) of Section 13700 of the Penal Code or Sections 6203 and 6211 of the Family Code, the district attorney or prosecuting city attorney shall perform or cause to be performed, by accessing the electronic data bases enumerated in subdivision (b), a thorough investigation of the defendant's history, including, but not limited to, prior convictions for domestic violence, other forms of violence or weapons offenses and any current protective or restraining order issued by any civil or criminal court. This information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, and (2) upon consideration of any plea agreement. In determining bail or release upon a plea agreement, the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released.

(b) For purposes of this section, the district attorney or prosecuting city attorney shall search or cause to be searched the following data bases, when readily available and reasonably accessible:

- (1) The Violent Crime Information Network (VCIN).
- (2) The Supervised Release File.

(3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.

(4) The Federal Bureau of Investigation's nationwide data base.

(5) Locally maintained criminal history records or data bases. However, a record or data base need not be searched if the information available in that record or data base can be obtained as a result of a search conducted in another record or data base.

(c) If the investigation required by this section reveals a current civil protective or restraining order or a protective or restraining order issued by another criminal court and involving the same or related parties, and if a protective or restraining order is issued in the current criminal proceeding, the district attorney or prosecuting city attorney shall send relevant information regarding the contents of the order issued in the current criminal proceeding, and any information regarding a conviction of the defendant, to the other court immediately after the order has been issued. When requested, the information described in this subdivision may be sent to the appropriate family, juvenile, or civil court. When requested, and upon a showing of a compelling need, the information described in this section may be sent to a court in another state.

SEC. 5. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian, or current or former member of the child's household from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining a parent, guardian, or current or former member of the child's household from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2).

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian or current or former member of the child's household from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order

or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code. (2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate

parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

SEC. 5.5. Section 213.5 of the Welfare and Institutions Code is amended to read:
213.5.

(a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2). A court issuing an ex parte order pursuant to this subdivision may simultaneously issue an ex parte order enjoining any person from contacting, threatening, molesting, attacking, striking, sexually assaulting, stalking, battering, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 213.5 of the Welfare and Institutions Code proposed by both this bill and AB 1129. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 213.5 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1129, in which case Section 5 of this bill shall not become operative.

SEC. 7. This act shall be implemented in those courts identified by the Judicial Council as having resources currently available for these purposes. This act shall be implemented in other courts to the extent that funds are appropriated for purposes of the act in the annual Budget Act.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.